



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XG169]

#### Request for Information and Public Virtual Dialogues on Commercial Earth

#### Observations and Geospatial Data and Services Practices

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of meeting; request for information.

**SUMMARY:** The United States Group on Earth Observations (USGEO) is preparing a document containing best practices for Federal government procurement of commercial Earth observation and geospatial data and services, per the 2019 National Plan for Civil Earth Observations. Information from private sector providers and users; academia, and the public is critical to that effort, and therefore USGEO is seeking public input. This notice invites the public to submit written comments on the topic generally and in response to specific questions outlined below, and to attend one of four virtual forums.

**DATES:** *Comments:* The agency must receive comments on or before June 30, 2021.

Virtual Public Meetings:

1. June 2, 2021, 11 a.m. to 12:30 p.m., Eastern Daylight Time
2. June 9, 2021, 1 p.m. to 2:30 p.m., Eastern Daylight Time
3. June 16, 2021, 11 a.m. to 12:30 p.m., Eastern Daylight Time
4. June 23, 2021, 1 p.m. to 2:30 p.m., Eastern Daylight Time.

Registration is limited to 250 individuals per session. All sessions will present the same content so you only need to attend one session. Information on how to join the virtual meetings will be available upon registration at the following links. Please register for the session you plan to attend.

June 2, 2021, 11am-12:30pm EDT: <https://usgeo2jun.eventbrite.com>

June 9, 2021, 1-2:30pm EDT: <https://usgeo9jun.eventbrite.com>

June 16, 2021, 11am-12:30pm EDT: <https://usgeo16jun.eventbrite.com>

June 23, 2021, 1-2:30pm EDT: <https://usgeo23jun.eventbrite.com>

For questions on registration, please contact [Wade.Price@noaa.gov](mailto:Wade.Price@noaa.gov).

**ADDRESSES:** You may submit comments on this request for information (RFI), identified by NOAA-NESDIS-2021-0051, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NESDIS-2021-0051 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by USGEO. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. USGEO will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

This is a request for information only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department or Federal Agencies to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department or Federal Agencies will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

**FOR FURTHER INFORMATION CONTACT:** Wade Price, USGEO Executive Secretariat, telephone (202) 419-5409; Email: *Wade.Price@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** USGEO is chartered as a subcommittee under the National Science and Technology Council (NSTC) – Subcommittee on Environment. The USGEO subcommittee’s purpose is to plan and coordinate Federal Earth observations, research, and activities; foster improved Earth system data management and interoperability; identify high-priority user needs for Earth observation data; and engage international stakeholders by formulating the U.S. positions for, and coordinating U.S. participation in, the intergovernmental Group on Earth Observations (GEO). Its membership consists of 13 Federal Agencies and components of the Executive Office of the President.

#### **A. The National Plan for Civil Earth Observation**

The USGEO developed the 2019 National Plan for Civil Earth Observations that was released by the Office of Science and Technology Policy in 2019. Read the full plan at <https://usgeo.gov/uploads/Natl-Plan-for-Civil-Earth-Obs.pdf>. The National Plan includes the following two actions:

- Work with commercial data providers and analytics companies to develop a set of best practices for commercial data buys.
- Work with commercial providers to understand issues, agency practices, and policies that foster development of small and medium businesses and start-ups.

#### **B. United States Earth Observation Enterprise**

The 2019 National Plan for Civil Earth Observations notes the U.S. Earth Observation Enterprise is comprised of Federal agencies; State, local, tribal, and territorial governments; world-leading colleges and universities; private industries; non-profit organizations; and Federal and National Laboratories. Together, the Earth Observations Enterprise, as it will hereafter be referred, is collectively involved in the

acquisition, analysis, dissemination and use of Earth observations; the operation of enabling infrastructure; sustaining and advancing the creation of data and information products; maintaining routine uses; and developing innovative applications for societal, environmental, and economic progress.

### **C: Best Practices Guide**

New observational technologies and analytics from a broad array of entities calls for a new way of doing business. USGEO, representing all the Departments and Federal Agencies, is seeking input from all components of the Earth Observation Enterprise on the development of best practices to understand the opportunities for and barriers to the Federal government's acquisition of commercial Earth observation and geospatial data and services. USGEO also seeks to understand the opportunities and impacts of the Departments and Federal Agencies moving to commercial Earth observation and/or geospatial data, analytics and services. Through the RFI and public dialogues, USGEO will use the inputs to develop a public document intended to inform Federal agencies about best practices they could consider when purchasing commercial Earth observations and/or geospatial data, analytics and/or services.

A background document that has more information about providing inputs to this best practices guide is provided at [https://usgeo.gov/public\\_engagement.html](https://usgeo.gov/public_engagement.html). In addition to general comments, USGEO is seeking comments on the following areas:

1. Using a consistent set of definitions in solicitations and contracts will aide in acquisition of Earth observation and geospatial information. Please comment on definitions for Commercial Environmental Data; Commercial Environmental Data Buys; Commercial Earth observation services; Commercial Geospatial Data and Information Acquisition; and derived products. (page 4 of the background document)

2. Data sharing (redistribution) rights are a critical factor in these procurements.

The government has different Licensing frameworks, please provide comments as to the feasibility of a single framework across all purchases.

Please provide information on barriers associated with the various licensing frameworks. Specifically:

- a. When considering data sharing rights, how should the Federal government consider the best value and return on investment for the taxpayer?
- b. What are useful categories of data sharing rights, both within the Federal government and externally? Categories could be defined by user type (*e.g.*, sharing with other Federal Government agencies, foreign agency partners, academia, the general public), by use cases (*e.g.*, commercial, non-commercial, scientific/research, operational), others?
- c. What are creative options for expanding data sharing rights without significantly increasing costs to the Federal government? For example, permitting sharing of data at a coarser spatial resolution, at full resolution with a time delay using sunset dates after which data reverts to the public domain, by permitting only non-commercial reuse, or permitting public release data used in scientific studies and reproduction of scientific information?
- d. How can contracts address the Federal government's use of products derived from commercial data, including for products for public release?
- e. If a contract allows some or all data to be shared outside the Federal government, are there challenges with sharing such data under a

standard open license (such as those described at

[\*https://resources.data.gov/open-licenses/\*](https://resources.data.gov/open-licenses/)), to ensure those third parties understand their use rights?

- f. How should the Federal government solicit information about the cost of different data sharing rights in the context of a specific procurement?
3. If you have responded to Federal government commercial Earth observation and/or geospatial data requests for proposal, please comment on challenges faced in responding to the requests.
4. Please identify acquisition processes that would facilitate your ability to respond to Earth observation and/or geospatial information business opportunities.
5. Are you aware of the various Departmental and Agency roles related to Federal Earth imagery acquisition? What types of information would help clarify those roles?
6. Do you prefer to work individual procurements with multiple agencies and programs or would you prefer to interact through larger coordinated multiple agency contracts?
7. The Departments and Agencies increase their reliance on commercial Earth observations and geospatial data, services and analytics there may be technical, scientific, legal, and other impacts.
  - a. What are the ramifications for academic researchers?
  - b. What are the ramifications for the private sector, both provider and downstream?
  - c. What are the ramifications for the public?
  - d. What are the ramifications for the international community?

8. Legal Issues

- a. Many standard commercial end user license agreements include terms that the Federal government is unable to accept, including indemnification, choice of law, dispute resolution, etc., many of which are replaced by applicable parts of the Federal Acquisition Regulations (FAR). Does this create any legal issues for data providers?
- b. What is the industry perspective on certification and validation of commercial data?
- c. What are the legal issues companies are facing when providing commercial data, analytics, information and services to meet Federal agencies operational missions? For example, regarding liability?

9. What are the main, non-technical barriers to increasing the Federal government's procurement of commercial data? This could be barriers due to acquisition practices, licensing agreements, Federal government's need for technical information to understand how data are collected and processed, and/or needs/constraints of vendors.

- a. Of these barriers, which would be feasible to resolve in the near- or mid-term?
- b. How do these barriers or the Federal government's requirements compare to non-governmental customers? If significantly different, does that make diversifying your customer base more difficult, and/or increase the prices offered to the Federal government?

10. What can the Federal government do to better foster the development of businesses and start-ups that provide commercial data or derived products?

11. What trends do you see in commercial Earth observations and/or geospatial information?

#### **D. Public Comment**

Every effort will be made to hear from as many registered individuals during the public dialogues. Individuals or groups making remarks during the public comment period will be limited to 3 minutes for each intervention. Individuals or groups may attend more than one dialogue session. These sessions will be recorded for use in writing the document. Submission of written comments are also encouraged.

Dated: May 18, 2021.

**Ajay N. Mehta,**

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